

Postage Subsidies for Periodicals: History and Recent Developments

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Summary

Recently, financial challenges have compelled a number of publishers of periodicals (e.g., magazines and newspapers) to downsize their operations and to cease printing certain publications. To cite just two examples—Time Inc. has said it will cut 600 jobs, and the century-old *Christian Science Monitor* newspaper, which is delivered via U.S. mail five days per week, is to cease publishing in paper format in April 2009.

In light of these high profile incidents, and because of a possible U.S. Postal Service postage increase in 2009, the 111th Congress may be asked to help periodical publishers by providing them with increased postage subsidies. Some publishers sought postage relief during the 110th Congress. Such assistance would not be unprecedented. In fact, Congress has subsidized periodicals' postage since the founding of the United States.

This report describes and assesses the major federal policies that have subsidized postage for periodicals. These policies have been contentious because they involve disputed principles and vexing implementation issues. Some persons believe that periodicals provide important information about politics and government to U.S. citizens, which helps members of the public to discharge their civic duties. Others dispute this contention. Additionally, considerable implementation issues also arise, such as “which periodicals should receive these subsidies?”

Since 1792, Congress has provided periodical mailers with reduced rates that are lower than their delivery costs. Initially, Congress funded these postage subsidies through annual appropriations. Senders of other types of mail, such as first-class letters, have paid rates that covered the revenue shortfall of periodicals.

In 2007, the Postal Regulatory Commission (PRC) restructured the postage rate schedule to more accurately peg periodical rates to their delivery costs. The postage paid by some periodical mailers jumped dramatically and their postage subsidies fell. Later that same year, the PRC established the new rate-setting system mandated by the Postal Accountability and Enhancement Act (PAEA; P.L. 109-435; 120 Stat. 3198-3263). The system requires each class of mail to bear its “direct and indirect costs,” but it also includes a rate cap that forbids the USPS from raising postage rates by more than the rate of inflation, except in “extraordinary or exceptional circumstances.” The long-term effects of the new rate schedule and rate-setting system on periodicals subsidies are unclear. Thus far, the USPS's periodicals delivery costs continue to exceed greatly its periodicals postage revenues.

This report will be updated as events warrant.

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Introduction: Recent Challenges for Periodical Publishers

A spate of autumn 2008 news stories reported the downsizing or closure of periodicals¹ and their publishers due to financial challenges:

- *U.S. News & World Report* magazine will reduce its paper issues to once per month;²
- Time Inc., which publishes 24 magazines for the U.S. market, has said it will cut 600 jobs, about 6% of its workforce;³
- Alpha Media Group, publishers of *Maxim* and other magazines for young men, will lay off 50 to 60 of its staffers;⁴
- Hearst magazines will transition *CosmoGirl* magazine to a web-only publication;⁵
- Condé Nast announced that it would reduce its business magazine, *Portfolio*, from 12 issues per year to 10, and *Men's Vogue* from 10 issues per year to 2;⁶
- *Radar* magazine ceased operations in October, and Manhattan Media Inc. announced that it had put off its plans to restart publication of *02138*, a lifestyle magazine for Harvard University alumni;⁷ and
- The century-old *Christian Science Monitor*, a newspaper that is delivered via U.S. mail five days per week, will cease publishing in paper format in April 2009. Except for a weekend paper edition, the newspaper will become a Web-only publication.⁸

These are not the only periodicals so affected. Since 2006, revenue shortfalls have compelled many other magazines to cease publication or to become Web-only publications.⁹

Generally, observers have cited three causes for periodicals' recent difficulties: (1) a decline in subscriptions, (2) a rise in paper costs, and (3) a decline in advertising revenue due to the downturn of the U.S. economy and advertisers' decisions to spend larger portions of their advertising budgets on websites instead of print publications.¹⁰ The aforementioned factors are

¹ Here, the term "periodical" refers to a magazine, journal, or newspaper.

² Howard Kurtz, "U.S. News & World Report to Shift Operations to Web," *Washington Post*, Nov. 5, 2008, p. C7.

³ Tim Arango, "Time Inc. Plans About 600 Layoffs," *New York Times*, Oct. 29, 2008, p. B8.

⁴ Chandra Johnson-Greene, "Alpha Media Files Lawsuit, Lays Off Staffers," *Folio*, Oct. 8, 2008, at <http://www.foliomag.com/2008/alpha-media-group-files-lawsuit-lays-staffers>.

⁵ Stephanie Clifford, "Hearst to Close CosmoGirl Magazine," *New York Times*, Oct. 10, 2008, p. B2.

⁶ Richard Perez-Pena, "Condé Nast Cuts Focus on 2 Magazines," *New York Times*, Oct. 30, 2008, p. B2.

⁷ John Koblin, "Notes on Black Friday," *New York Observer*, Oct. 28, 2008, at <http://www.observer.com/2008/media/notes-black-friday-maer-s-pot-gold-david-blum-s-demise-foretold>

⁸ Howard Kurtz, "Monitor to End Its Daily Print Edition," *Washington Post*, Oct. 29, 2008, p. C2.

⁹ Examples include *Play: The New York Times Sports Magazine* (November 2008), *O at Home* (November 2008), *Turbo* (October 2008), *Quick and Simple* (July 2008), *Business 2.0* (October 2007), *Stuff* (August 2007), *American Heritage* (May 2007), *Bundle* (May 2006), *Circus* (May 2006), *Celebrity Living Weekly* (April 2006), and *Legal Affairs* (March 2006). See <http://www.magazinedeathpool.com>.

¹⁰ For example, see Dylan Stableford, "Have Paper Prices Peaked," *Folio*, Nov. 5, 2008, at <http://www.foliomag.com/node/25891>.

not the only factors that have negatively affected the survival of periodicals. As with any business, firm-specific causes, such as managerial errors (e.g., financial mismanagement) and oversupply (e.g., too many periodicals competing for the same audience of readers), also have come into play.

In light of these high profile incidents, and because of a possible U.S. Postal Service postage¹¹ increase in 2009, the 111th Congress may be asked to help periodical publishers reduce their operating costs by providing them with increased postage subsidies.¹² Some publishers sought postage relief during the 110th Congress.¹³ Such assistance would not be unprecedented. In fact, as this report details, Congress has subsidized periodicals postage since the founding of the United States.

Postage Subsidies for Periodicals, 1792-1969

Rationales and Policies

Postage on periodicals has been subsidized since the U.S. postal system was established more than two centuries ago. Initially, senders of all types of mail were subsidized—they did not have to pay postage. Instead, the U.S. Post Office Department (herein, Post Office) attempted to collect postage from the persons who received mail.¹⁴

Periodicals, though, benefitted from an additional subsidy. The Post Office Act of 1792 (1 Stat. 238) set the postage charged to the recipients of newspapers lower than the postage charged to the recipients of letters.¹⁵ In 1794, Congress expanded this subsidy to include magazines, although the postage on magazines was not set as low as the postage on newspapers (1 Stat. 362).¹⁶

These subsidies were problematic for the Post Office. It struggled to collect postage from mail recipients, who often balked at paying, and suffered significant costs from carrying periodicals. According to one estimate, by 1801, “newspapers constituted 45 percent of all pieces mailed, but defrayed a mere eight percent of the [Post Office’s] costs.”¹⁷ The Post Office’s costs exceeded its

¹¹ Here, the term “postage” refers to the price paid to have a mail piece delivered. “Postage” is synonymous with “postal rates.”

¹² Here, the term “subsidy” refers to an economic benefit provided by a government to a producer or consumer that is intended to encourage the production or consumption of a good or service. This memorandum addresses only major subsidies for periodicals. It does not include information on smaller subsidies, such as the 1845 statute that permitted any newspaper publisher to mail newspapers postage-free to persons residing within 30 miles of the newspaper’s office (5 Stat. 733).

¹³ Magazine Publishers of America reports that the magazine industry is “90% dependent on the postal system for delivery of its products.” (The remaining 10% are delivered by private couriers.) See Magazine Publishers of America, *Washington Watch*, Apr. 2008, p. 2.

¹⁴ Under this COD, or “collect on delivery,” system, recipients paid postage to a clerk when they picked up their mail from a post office, or to the carrier who delivered it to their homes.

¹⁵ One effect of this policy is that some newspaper subscribers gamed the system by using newspapers to send correspondence. They would make marks under letters on various pages to spell a message, write an address on the newspaper, then deposit the newspaper in the mail. Its recipient would pay lower postage than he would have paid on correspondence sent as a letter. Congress responded to this loophole by enacting a statute that would permit only newspapers without marks upon them to be mailed at the subsidized rate (10 Stat. 39).

¹⁶ Perhaps surprisingly, Congress did not extend this subsidy to other media that might contain useful information on politics and governance, such as pamphlets and books.

¹⁷ Richard B. Kielbowicz, *Origins of Second-Class Mail and the Business of Policymaking, 1863-1879* (Columbia, SC: AEJMC, 1986), p. 4.

revenues, so each year, Congress appropriated funds to cover the costs not provided for by postage.

The Post Office's periodicals revenue problem continued unabated until 1874, when Congress enacted a statute that required publishers to prepay postage (18 Stat. 232). Publishers were charged two cents per pound of newspapers and three cents per pound of magazines. This began to remedy the revenue shortfall, yet the postage charged still did not cover the total periodical delivery costs to the Post Office.

Reduced Access to Postage Subsidies for Periodicals

Congress subsidized the delivery¹⁸ of newspapers, then magazines, for at least three reasons.¹⁹ First, some Members of Congress reasoned that if citizens were to play their role in a democratic republic, they needed to have information on matters affecting the nation. Telegraphs, radio, and other modern information technologies did not yet exist. Newspapers were a means to provide information to the geographically dispersed members of the public so they might ably discharge their duties as citizens.²⁰ Second, publishers, who gained increased readerships through subsidized delivery, actively lobbied Congress and, by editorial and other means, could attempt to unseat Members who voted contrary to the publishers' interests. Third, as the newly formed political parties developed, Congress saw the mails as a means for getting their message out and winning elections.

This national policy of subsidizing newspapers was problematic, though, because it did not clearly define what constituted a newspaper. Postmasters general and postal employees were obliged to work out definitions themselves on the fly. Some Post Office officials thought a publication's format was conclusive—if it was printed on a single sheet of large paper, it was a newspaper. Others at the Post Office looked to the publication's contents or frequency of publication.²¹

Seeing the incentives available, advertisers produced advertisements that looked like newspapers and magazines in order to receive the periodicals postage subsidy. Over the course of the 19th century, Congress and the Post Office sought a policy that would clearly distinguish between publications with contents worthy and unworthy of government postage subsidies. In 1852, Congress reworked the postage rate schedule to provide the same subsidized postal rates for newspapers, magazines, and circulars (10 Stat. 38-39). Congress enacted other incremental alterations in 1863 (12 Stat. 705), 1872 (17 Stat. 300), and 1874 (18 Stat. 233), which set higher postal rates for other "printed matter," such as advertisements, and, critically, required mailers of periodicals to prepay postage. The Post Office was no longer obliged to attempt to collect postage from mail recipients.

¹⁸ Here the term "delivery" is defined to include costs of receiving, handling, and delivery of a mail piece.

¹⁹ See Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge: Harvard University Press, 1995); Richard B. Kielbowicz, *News in the Mail: The Press, Post Office, and Public Information, 1700-1860s* (Westport, CT: Greenwood Press, 1989); Richard D. Brown, *The Strength of a People: The Idea of an Informed Citizenry in America, 1650-1870* (Chapel Hill, NC: University of North Carolina Press, 1996); and Paul H. Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004).

²⁰ At this time, most newspapers were very political; many were produced by parties or partisans. Hence, their usefulness as information sources is debatable.

²¹ Richard B. Kielbowicz, "A History of Mail Classification and Its Underlying Policies and Purposes," paper prepared for the Postal Rate Commission, July 17, 1995, pp. 12-13, available at <http://www.prc.gov/docs/40/40518/PRC-LR-2.pdf>.

Despite these efforts, the Post Office continued to be inundated with non-periodical mail pieces that mailers wished to send at subsidized periodicals postage rates. They could do this because the laws governing the mails simply did not provide a clear distinction between periodicals and non-periodicals.

With the Post Office's support, Congress further refined postal classifications. An 1876 statute distinguished advertising mail from periodicals by referring to the former as a "publication designed primarily for advertising" (19 Stat. 82). Three years later, Congress enacted a significant reclassification of mail types and postage (20 Stat. 358-361). The statute limited periodical or second-class mail to "printed paper sheets, without board, cloth, leather, or substantial binding." It required a publisher seeking a periodical postage rate to register the publication with the Post Office, which would certify that the printed matter met the new statutory criteria for second-class mail. By law, a periodical had to be published at regular, stated intervals, and be addressed to a particular subscriber (e.g., John Q. Public, 74 Further Lane), not the household (Resident, 74 Further Lane).

The 1879 law also included a provision that attempted to distinguish periodicals from non-periodicals based on content. While a periodical was permitted to carry advertisements, its total contents had to be devoted primarily to "information of a public character, or devoted to literature, the sciences, arts, or some special industry" (20 Stat. 359). Reduced postage rates, then, would not be limited only to magazines that carried information directly relevant to government, policy, and politics.

Mail pieces that failed to meet the second-class criteria were charged the higher third-class postal rates levied on pamphlets, books, and other printed matter. Underlying the 1876 and 1879 laws' distinction between periodical mail and advertising mail was a principle enunciated by Arthur H. Bissell, an attorney for the Post Office—postage on periodicals that benefited the nation by informing the public on useful matters might justifiably be subsidized by taxpayers. However, "the government should not carry at a loss to itself publications which are simply private advertising schemes."²² Despite these efforts to limit access to subsidized periodicals postage, some publishers still attempted to pass off non-periodicals as such.²³

During the first seventy years of the 20th century, Congress little altered the postal laws that provided reduced rates for periodicals. Congress did expand the range of mailers whose publications could qualify for periodical postage rates even if they did not meet the legal standards for what constituted a periodical. Fraternal groups, religious organizations, and not-for-profit entities were permitted to mail their publications at the reduced periodicals postage rates (28 Stat 104-105; 37 Stat. 551; and 40 Stat. 328). Some lauded these expansions of the availability of subsidized periodical postage, while others expressed concerns over the utility of these policies.²⁴

²² Arthur H. Bissell, "Argument," in U.S. Senate, Committee on Post Office and Post Roads, *Argument of William Sheldon of Boston*, hearing, 45th Cong., 2nd sess., Mar. 7, 1878 (Washington: GPO, 1878), p. 8.

²³ In *Houghton v. Payne*, 194 U.S. 88 (1904), the Supreme Court ruled against a publisher who argued that short books mailed out at regular intervals to subscribers are eligible for periodicals.

²⁴ Kielbowicz reports that in the early 20th century, some Members of Congress "questioned whether a policy devised during the early Republic still made sense in the twentieth century [...] Was it necessary for government to help bind the nation together? If so, was subsidizing the circulation of advertising-filled newspapers and magazines the best way to do so?" In 1906, an advertising agent told the Joint Commission of Congress on Second Class Mail, "There is still an illusion to the effect that a magazine is a periodical in which advertising is incidental. But we don't look at it that way. A magazine is simply a device to induce people to read advertising." Kielbowicz, *A History of Mail Classification and Its Underlying Policies and Purposes*, pp. 52-53.

Congress also further refined the postal laws to distinguish editorial from advertising content. In 1917, Congress bifurcated the postage rates paid by periodicals. Mailers would be charged one rate for the editorial portion of the periodical, and a higher rate for the advertising portion (40 Stat. 328).²⁵ In 1951, Congress enacted a statute that prohibited providing periodicals postage rates to any publications “having more than 75 per centum advertising in more than one-half of its issues during any twelve-month period” (65 Stat. 762).

In 1960, Congress enacted a statute to recodify the nation’s postal laws. The definition of a periodical had changed little since 1879 (74 Stat. 666-667). The law required a periodical to

- (1) be regularly issued at stated intervals as frequently as four times a year and bears a date of issue and is numbered consecutively;
- (2) be issued from a known office of publication;
- (3) be formed of printed sheets;
- (4) be published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or a special industry; and
- (5) have a legitimate list of subscribers.

Additionally, any publication seeking the periodicals postage rate could not consist of more than 75 percent advertising in more than half of any of its issues in any 12-month period.

These matters stood until Congress enacted major reforms in 1970.

Postage Subsidies for Periodicals and the 1970 Postal Reorganization Act

In the late 1960s, the Post Office was widely recognized to be in crisis. The department had been running deficits for years. In FY1967, it spent \$1.2 billion more than it earned. Periodicals mail was the biggest money loser for the Post Office, contributing nearly \$400 million to the department’s deficit that year.²⁶ The postage on periodicals covered only about a quarter of the delivery costs.²⁷ As before, taxpayers made up the shortfalls through annual appropriations.²⁸

Congress addressed this problem and many others afflicting the Post Office by enacting the Postal Reorganization Act of 1970 (PRA; 84 Stat. 719-787; 39 U.S.C. 101 et seq.). The statute abolished the Post Office Department, replacing it with the U.S. Postal Service (USPS), an “independent establishment of the executive branch.” This new entity was designed to be financially self-

²⁵ In 1919, the Post Office pegged the annual cost of the periodicals subsidy at \$72 million per year, or about \$897 million today. Some publishers complained that they were not the beneficiaries of postage subsidies. In a letter to the *New York Times*, Charles J. Post of the Publishers Advisory Board stated, “This is most emphatically not true. It is an economic absurdity; for low postage is a direct benefit or ‘subsidy’ to the reader of newspapers and periodicals.” Charles J. Post, “Post Replies to Burleson,” *New York Times*, May 6, 1919. While a subsidy may lower the consumer’s purchase price, nevertheless the seller of the periodical benefits as he is paying less than the full cost for the service of delivery. Additionally, if lower postage rates make for lower subscription prices, then lower subscription prices mean periodicals will have higher circulation rates and, therefore, higher advertising rates.

²⁶ President’s Commission on Postal Organization, *Towards Postal Excellence*, annex, vol. 1 (Washington: GPO, 1968), pp. 148-149.

²⁷ President’s Commission on Postal Organization, *Towards Postal Excellence* (Washington: GPO, 1968), p. 31.

²⁸ Congress’s efforts to increase postage rates on periodicals often were denounced by publishers. For example, in 1962, *Time* magazine claimed higher periodicals rates were “something close to a death sentence. Among the potential victims: such so-called ‘little magazines’ as the *New Republic*, *National Review*, the *New Leader*, the *Nation*.” Editorial, “Stamping Out a Deficit,” *Time*, Apr. 6, 1962.

sufficient, that is, it was to operate without annual congressional appropriations. To this end, the PRA provided the USPS with greater authority over its operations so that it could control its costs and boost its revenues. The law also had effects on periodicals, which had continued to fail to provide the USPS with revenues that covered the cost of their delivery.

Subsidized Postage for Periodicals Retained

As described above, periodicals had received special treatment under postal law since 1792. The PRA required periodicals to be charged “reduced rates” (84 Stat. 762-763; 39 U.S.C. 3626). Additionally, the PRA did not end the policy enacted in 1917 (40 Stat. 328) that required lower postage rates for the editorial portion of a periodical than for the advertising portion. Hence, the law permitted periodicals to continue to pay postage rates that were subsidized.

Access to the Subsidized Periodicals Postage Reduced

The PRA retained much of the earlier statutory criteria. To receive periodicals rates, a publication had to meet the following requirements:

(a) Each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as the Postal Service may require with respect to—

- (1) the identity of the editor, managing editor, publishers, and owners;
- (2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;
- (3) the identity of known bondholders, mortgagees, and other security holders;
- (4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and
- (5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges. The Postal Service shall not require the names of persons owning less than 1 percent of the total amount of stocks, bonds, mortgages, or other securities.

(b) Each publication having such mail privileges shall furnish to the Postal Service information in such form and detail, and at such times, as the Postal Service requires to determine whether the publication continues to qualify for such privileges.

(c) The Postal Service shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of periodical publication mail privileges for failure to furnish the required information (84 Stat. 765-766; 39 U.S.C. 3685).

These requirements remain in law, and the USPS’s interpretations of these requirements and its interpretation of what constitutes a “periodical” may be found in the USPS’s *Domestic Mail Manual*.²⁹

²⁹ U.S. Postal Service, *Domestic Mail Manual* (Washington: USPS, 2008), section 707, available at <http://pe.usps.gov/text/dmm300/707.htm>. The PRA did not retain, however, the description of a periodical as “formed of printed sheets” (74 Stat. 667). Nor did PRA keep the 1879 law’s content definition, which declared that periodicals are “published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or a special industry”

A New Process for Setting Postage Rates

PRA dramatically reduced Congress's role in setting postal rates, shifting this responsibility to USPS and the newly created Postal Rate Commission (PRC, renamed the Postal Regulatory Commission in 2006).³⁰

PRA mandated that postal rates and fees be set so that USPS's revenues would equal its costs (84 Stat. 760). It devised a new quasi-judicial process for setting postage rates. USPS would file a request for rate increases with the PRC; the public and interested parties would submit comments and rebuttals; then the PRC would produce a "recommendation" of rates that USPS's board of governors could accept, reject, or return to the PRC for further consideration (84 Stat. 760-762). The recommendation of the PRC had to be based upon the following factors:

- (1) the establishment and maintenance of a fair and equitable schedule;
- (2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
- (3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
- (4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;
- (5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;
- (6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;
- (7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services; and
- (8) such other factors as the Commission deems appropriate. (84 Stat. 760-761)

Many of these criteria include calculations of value and cost. For example, for the first time, periodicals (and all mail classes) were to "bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type" (84 Stat. 760). None of the PRA's criteria, however, required the PRC to provide reduced postage rates for mail devoted to "the dissemination of information of a public character, or devoted to literature, the sciences, arts, or a special industry."

Postage Subsidies for Periodicals, 1971-2005

Subsidies Continued

The PRA had an immediate effect on all mail classes, including periodicals. In setting second-class rates, the costs to USPS now had to be considered. PRA did authorize "revenue forgone"

(74 Stat. 667).

³⁰ Congress retains the power to set postage rates through statute.

appropriations for some types of mail, such as not-for-profit mailings (84 Stat. 762-763).³¹ Generally, though, the law required postage to cover the costs to USPS of receiving, handling, and delivering mail.

The PRA had significant effects on postage rates, and on periodicals rates in particular. In 1972, USPS and the PRC agreed to raise periodicals postage rates significantly.³² The two agencies agreed to further large increases in periodicals postage rates in 1974.³³ In 1976, the PRC recommended raising rates further still.³⁴

Table 1. Periodicals Postage Increases, 1971-1976

Date of Rate Increase	Average Postage Per Mail Piece (cents)	Increase Over Base Rate
Pre-May 1971	2.3	N/A
May 1971	2.8	20%
July 1972	2.9	25%
September 1973	3.5	50%
March 1974	4.0	74%
July 1974	5.1	122%
July 1975	6.2	170%
July 1976	7.3-9.2	217%

Source: U.S. Congress, House Committee on Post Office and Civil Service, *Legislative History: Postage Rates—Amount*, report on P.L. 93-328, 93rd Cong., 2nd sess., H.Rept. 93-1084 (Washington: GPO, 1974), p. 3410.

The PRA established timetables for phasing out the subsidies for periodicals over five years.³⁵ In 1974, Congress lengthened this phase-out period to eight years (88 Stat. 287). Congress justified this extension on the basis of publishers' economic hardship—the industry claimed it was suffering from the significantly increased postage rates.³⁶

Despite the PRA's changes to the law and the postage increases, periodicals did not cease to be subsidized. For one, the PRA did not end the policy enacted in 1917 (40 Stat. 328) that required lower postage rates for the editorial portion of a periodical than for the advertising portion.

For another, the statute required each mail class to bear its "attributable cost," but not its "total cost," which includes both its attributable cost (i.e., the cost to USPS to process a particular class of mail), and its "institutional cost" (i.e., the cost that is fixed, such as the compensation of a mail

³¹ CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin R. Kosar.

³² Postal Rate Commission, *Opinion and Recommended Decision*, R71-1 (Washington: PRC, June 5, 1972), vol. 1, pp. 93-145. American Business Press subsequently informed the PRC that its members' postage rates had increased 127% between 1970 and 1973. Postal Rate Commission, *Commission's Opinion and Recommended Decision*, Docket R74-1 (Washington: PRC, 1975), vol. 1, p. 237.

³³ Postal Rate Commission, *Commission's Opinion and Recommended Decision*, Docket R74-1, vol. 1, p. 243.

³⁴ Postal Rate Commission, *Commission's Opinion and Recommended Decision*, Docket R76-1 (Washington: PRC, 1976), vol. 1, p. 192, and vol. 2, appendix D-1, D-3, and D-4.

³⁵ Periodicals produced by not-for-profit corporations were given longer subsidy phase-out timetables.

³⁶ U.S. Congress, House Committee on Post Office and Civil Service, *Legislative History: Postage Rates—Amount*, report on P.L. 93-328, 93rd Cong., 2nd sess., H.Rept. 93-1084 (Washington: GPO, 1974), p. 3409.

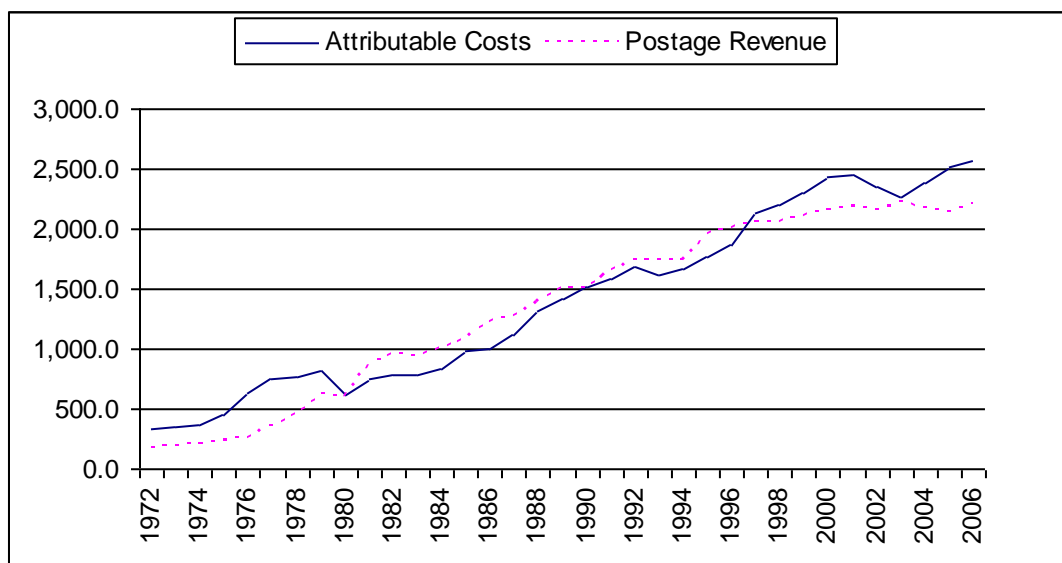
carrier, who delivers all classes of mail). Because the PRA required all mail and postal services to collectively cover USPS's costs, when periodicals failed to cover their attributable and institutional costs, other classes of mail had to cover the shortfall.

After the steep postage increases of the early 1970s, some publishers had protested that the new postage rates were too high. Some of them publicly pondered using private couriers to deliver their periodicals.³⁷ In 1976, Congress amended the PRA to underscore its desire that periodicals mailers were to pay postage that was less than their total delivery costs. The new law required the PRC to consider an additional criterion when setting postage rates—"the educational, cultural, scientific, and informational value to the recipient of mail matter" (90 Stat. 1303; 39 U.S.C. 3622(b)(8)).

Periodicals Postage Revenues Lag Behind USPS's Delivery Costs

Between 1971 and 1996, the repeated increases of periodicals postage helped the mail class cover its attributable costs (**Figure 1**) and provide significant revenues toward USPS's institutional costs (**Figure 2**). After 1996, however, periodicals postage revenue did not climb as quickly as their delivery costs, and periodicals ceased contributing revenues toward the USPS's institutional costs. By 2006, periodicals revenue had fallen nearly \$375 million below their attributable costs.

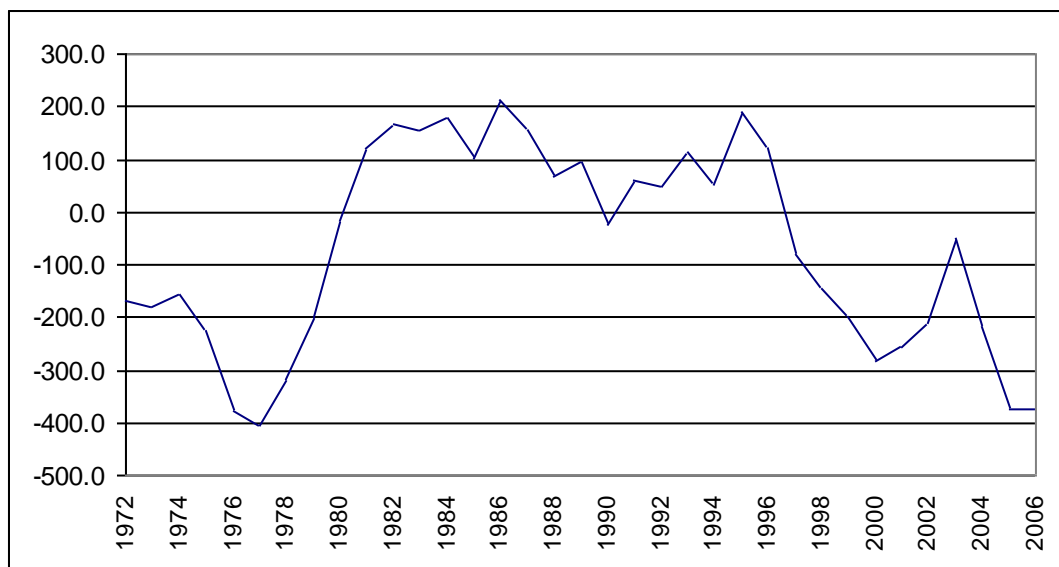
Figure 1. Periodicals Attributable Costs and Revenues, FY1972-FY1976 (millions of dollars)



Source: Data provided by the Postal Regulatory Commission

³⁷ "Publishers Sort Out Ways to Bypass the Mails," *Business Week*, Aug. 4, 1975, p. 64.

Figure 2. Periodicals Contribution Toward the USPS's Institutional Costs, FY1972-FY2006 (millions of dollars)



Source: Data provided by the Postal Regulatory Commission

It is difficult to determine the cause or causes for the decline of periodicals revenues relative to the USPS's costs to deliver them. The data above are not conclusive, although one observation may be made. For reasons unclear, the USPS did not propose to increase periodicals postage in 1997, and as **Figure 1** indicates, a drop in cost coverage followed.³⁸ However, it must be noted that subsequently the USPS and PRC agreed to raise periodicals rates repeatedly. In 2000, the USPS proposed boosting rates 14.4%; the Postal Rate Commission suggested lowering that increase to 9.9% after the USPS announced that it had devised means to reduce its periodicals processing costs.³⁹ The USPS and PRC agreed to increase postage on periodicals more than 10% in 2002, and more than 5% in 2005.⁴⁰ Nevertheless, these higher rates did not increase revenues sufficiently so that periodicals covered their attributable costs.

Recent Developments, 2006-Present

The Rate Case of 2006-2007

The USPS filed a rate case on May 3, 2006. "Without rate and fee changes," the USPS explained, it "would incur a substantial revenue deficiency in the proposed test year, in contravention of 39 U.S.C. 3621."⁴¹ Periodicals rates were particularly problematic. Postmaster General John E.

³⁸ Postal Rate Commission, *Opinion and Recommended Decision, Docket No. R97-1* (Washington: PRC, 1998).

³⁹ Postal Rate Commission, "Postal Rate Commission Issues Opinion," press release, Nov. 13, 2000, p. 2.

⁴⁰ Postal Rate Commission, *Opinion and Recommended Decision Approving Stipulation and Agreement, Docket No. R2001-1* (Washington: PRC, 2002), p. 103; and Postal Rate Commission, *Opinion and Recommended Decision, Docket No. R2005-1* (Washington: PRC, 2002), p. 144.

⁴¹ U.S. Postal Service, *Request of the United States Postal Service for a Recommended Decision on Changes in Rates of Postage and Fees for Postal Services* (Washington: USPS, 2006), p. 2, available at http://www.prc.gov/docs/48/48667/Request_R2006-1_Complete.pdf.

Potter later testified before Congress that the volume of periodicals mailed had declined 13 percent between 2000 and 2006, and some periodicals paid rates that did not cover even their attributable, let alone institutional, costs.⁴² The PRC Chairman, Dan Blair, told Members of a House Subcommittee that USPS's costs of delivering

first-class and standard mail letters have remained essentially flat over the past 10 years and as a result, the rates for that mail have been fairly stable. This is in sharp contrast to the spiraling costs associated with periodicals. For many years, the Commission has sought to keep periodicals postage rates as low as possible in the face of declining magazine mail volume and increasing Postal Service costs.... [M]agazines make the lowest contribution to overhead of any class of mail—roughly \$3.6 million to fund almost \$35 billion in [USPS] overhead costs.⁴³

After holding open hearings, accepting public comment, and reviewing testimony submitted from witnesses, the PRC issued its recommended decision on February 26, 2007.⁴⁴ The USPS, with a few caveats, accepted PRC's recommended postage rates. Most of the new postage rates were implemented on May 14, 2007, but USPS did not implement the new periodicals rates until July 15. According to Postmaster General Potter, the USPS delayed the new periodicals rates to give periodicals mailers time to adjust to the new and very different postage schedule.⁴⁵

The PRC was concerned that periodicals as a class had “low cost coverage;” it made no contribution to the USPS's institutional costs, and had failed to cover all its attributable costs.⁴⁶ Thus, the PRC recommended rates that would increase periodicals rates 11.8 percent. Additionally, the PRC held that the periodicals postage schedule should identify more of the “cost drivers” within USPS's mail handling process. Doing this required the PRC to produce a new periodicals rate schedule that was much more complex than the old one. The new schedule recognizes these cost drivers and reduces postage costs for mailers who undertake mail preparation activities (such as presorting mail pieces by zip code and stacking them on pallets) that lower USPS's handling costs.

Rate case R2006-1 had direct effects on periodical subsidies. First, the postage subsidy would be reduced by requiring periodicals to cover a little more of their attributable costs. Second, by identifying more of the cost drivers in mail handling, the decision tacitly recognized that some periodicals mailers paid postage that covered a higher percentage of their attributable costs than other mailers. That is, these latter periodical mailers were receiving an intra-periodical class subsidy from the former periodical mailers. The new rate schedule would remedy this inequity.

The new rate schedule for periodicals provoked much debate. Some critics suggested that the new periodicals rates were the result of a conspiracy.

⁴² Statement of John E. Potter, Postmaster General, U.S. Postal Service, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Will Increased Postage Rates Put Mailers Out of Business?* hearing, 110th Cong., 1st sess., Oct. 30, 2007, p. 2, available at <http://federalworkforce.oversight.house.gov/documents/20071030122346.pdf>.

⁴³ Statement of Dan Blair, Postal Regulatory Commission Chairman, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Will Increased Postage Rates Put Mailers Out of Business?*, pp. 2-3, available at <http://federalworkforce.oversight.house.gov/documents/20071030122413.pdf>.

⁴⁴ Postal Regulatory Commission, *Opinion and Recommended Decision*, R2006-1, vol. 1 and 2 (Washington: PRC, 2007).

⁴⁵ Statement of John E. Potter, *Will Increased Postage Rates Put Mailers Out of Business?*, p. 4.

⁴⁶ Postal Regulatory Commission, *Opinion and Recommended Decision*, R2006-1, vol. 1, p. 299.

On the scale of giant social troubles, this one won't register, but as a breathtaking example of corporate influence and regulatory cronyism, it can't be beat. After almost a year of hearings, last month the Bush-appointed U.S. Postal Service Board of Governors tossed out their own staff recommendations and at the last minute approved a 758-page plan submitted by Time Warner that will increase mailing costs between 18 and 30 percent a year for small-circulation magazines like *Mother Jones*, while postal costs for the big guys—Time, Newsweek, People—will actually go down.⁴⁷

The PRC stated that the goal of the new rate schedule was

to better reflect costs, and send price signals that will encourage more efficient mailing practices. Periodicals costs have risen disproportionately in recent years, in part because current rates send such poor signals [to mailers]. For example, Periodicals is the only class where no rate penalty is applied to nonmachinable pieces. The [PRC] recommends a new design that draws from the separate proposals of the Postal Service and Time Warner Inc. The recommended rates recognize only a limited portion of the costs associated with identifiable cost drivers in order to moderate the impact on mailers. Nonetheless, Periodicals mailers are extremely cost conscious, and the Commission expects that these rates will foster more efficient, less costly Periodicals mail.⁴⁸

Congressional Action

Representatives from some periodicals complained that the new rate structure was unfair to publishers of small circulation magazines, who claimed they could not take the mail preparation steps required to reduce their postage costs. Some magazines and newspapers, sharply criticized the rate increases in editorials, and expressed concern that the higher rates imperiled their existence, thereby threatening free speech and the free flow of information.⁴⁹

Sensing the dissension, the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia held a hearing on October 30, 2007. Victor Navasky, publisher emeritus of *The Nation* magazine, told Congress that the R2006-1 rate case decision had imperiled

those magazines that devote the most space to public affairs—to covering in depth events like the hearings before this very subcommittee In the case of *The Nation*, the cost of mailing the magazine is already more than three times the cost of the paper on which it is printed.... [The new rates] will cost the magazine an additional \$500,000 a year.⁵⁰

Some small-circulation periodicals, Navasky warned, would “undoubtedly expire in the months ahead” due to the higher postage rates. In a letter to the subcommittee that was appended to the statement of Victor Navasky, Scott McConnell of *The American Conservative*, stated that the magazine faced a 58% increase in mailing costs, with postage rising from a little under 20 cents per issue to 31.5 cents per issue.⁵¹

⁴⁷ Steve Katz, “Net Neutrality: The Dead Trees Version,” website of *Mother Jones* magazine, Apr. 17, 2007, available at http://www.motherjones.com/mojoblog/archives/2007/04/4205_on_the_scale_of.html.

⁴⁸ Postal Regulatory Commission, *Opinion and Recommended Decision*, R2006-1, vol. 1, pp. iii-iv.

⁴⁹ See, for example, the exchange between the *Boston Globe* and the PRC Chairman, Dan Blair in the newspaper's pages. Editorial, “Don't Stamp Out Brainy Mags,” *Boston Globe*, Apr. 27, 2007, p. A14; and Dan Blair, “Postal Panel's Goals: Fairness, Costs Cut,” May 1, 2007, p. A18.

⁵⁰ Statement of Victor Navasky, Publisher Emeritus, *The Nation*, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Will Increased Postage Rates Put Mailers Out of Business?*, p. 4, available at <http://federalworkforce.oversight.house.gov/documents/20071030122452.pdf>.

⁵¹ McConnell's letter was appended to the Statement of Victor Navasky.

Not everyone sympathized with these views. James O'Brien of Time Inc. told Congress that the USPS's cost of delivering periodicals had "outpaced inflation by more than 60% since 1986." The incentive structure of the rate system, O'Brien argued, was at fault. "Because the postage rates for periodicals did not reflect the Postal Service's costs, and gave mailers little reason to choose more efficient mailing practices, periodicals costs continued to escalate."⁵² Mark W. White of U.S. News & World Report, L.P., argued that the rate case did not benefit all large circulation publishers and afflict all small circulation publishers. His company, which mailed 95 million magazines in the previous fiscal year, faced a 15% increase in postage rates. White argued that the R2006-1 rate case decision had not gone far enough to end biases in the periodicals rate structure that benefit "inefficient mailers" at the expense of efficient periodicals mailers.⁵³

Some critics of the new periodicals rates have argued that Congress should enact legislation to increase postage subsidies for small circulation magazines. During the 110th Congress, no Member introduced legislation to alter postage rates for periodicals.

A New Law and an Unclear Future for the Postage Subsidy for Periodicals

The enactment of the Postal Accountability and Enhancement Act (PAEA; P.L. 109-435; 120 Stat. 3198-3263) in December 2006 made the future of the postage subsidy for periodicals less clear.⁵⁴

The PAEA requires the new Postal Regulatory Commission (PRC) to devise a new postage rate-setting system. The statute states that an "objective" of the new system is that it will allocate "the total institutional costs of the Postal Service appropriately between market-dominant and competitive products" (120 Stat. 3201).⁵⁵ Additionally, one of the "factors" that the PRC had to consider in establishing the new pricing system is

the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type (120 Stat. 3201).

Prima facie, it might appear that this provision requires each mail class, including periodicals, to cover all of its costs. Were this the case, it might be expected that the periodicals subsidy would diminish.

⁵² Statement of James R. O'Brien, Vice President of Distribution & Postal Affairs, Time Inc., House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Will Increased Postage Rates Put Mailers Out of Business?*, pp. 2-4, available at <http://federalworkforce.oversight.house.gov/documents/20071030122913.pdf>.

⁵³ Statement of Mark W. White, Vice President of Manufacturing, U.S. News & World Report, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Will Increased Postage Rates Put Mailers Out of Business?*, pp. 1-3, available at <http://federalworkforce.oversight.house.gov/documents/20071030123117.pdf>.

⁵⁴ For an overview of the PAEA, see CRS Report RS22573, *The Postal Accountability and Enhancement Act*, by Kevin R. Kosar.

⁵⁵ PAEA divides USPS products into "competitive" and "market-dominant" classes, and directs the PRC to establish different systems to price products in each of these classes. Competitive products include those products and services for which a competitive market exists, like overnight package delivery. Market-dominant products include those products that USPS need not compete with the private sector to provide, such as first-class mail and periodicals (120 Stat. 3200-3207).

This interpretation, however, does not appear to be correct. First, the PAEA does not state that each mail classes must cover its total costs. Rather, the law requires each mail class to cover its “attributable” costs.

Second, the PAEA only requires that the USPS’s institutional costs be allocated among mail classes “appropriately.” The law does not define what “appropriately” means. The PRC interpreted it to mean that competitive products (overnight mail and other products) must contribute a minimum of 5.5% of the USPS’s institutional costs.⁵⁶ This would mean that up to 94.5% of the USPS institutional costs would need to be covered by market dominant products. However, neither the law nor the PRC’s rules require periodicals or any other market dominant product to cover a particular percentage of these institutional costs.

Third, the PAEA contains provisions that clearly favor the continued subsidization of periodicals as a class of mail. The PAEA did not abolish the longstanding statutory policy of lower postage rates for the editorial portion of a periodical. Also, the PAEA stipulates that one of the factors that the PRC is to consider in devising the new postage rate system is “the educational, cultural, scientific, and informational value to the recipient of mail matter” (120 Stat. 3202).

In light of these points, nothing in the law would appear to indicate that the postage subsidy for periodicals need diminish.

That said, the PAEA may provide one means under which periodicals postage could be greatly increased and its subsidies greatly reduced.

The new rate-setting system mandated by the PAEA must limit the annual postage increases for periodicals and other market dominant products.⁵⁷ Postage may not be increased more than the Consumer Price Index for All Urban Consumers (CPI-U) (120 Stat. 3202-3203).⁵⁸ Thus far, it appears that both the PRC and the USPS strongly respect the PAEA’s rate cap. On February 11, 2008, the USPS filed its first notice of increased postage for market dominant products.⁵⁹ The Postal Service proposed to raise postage beginning May 12, 2008. It sought to increase periodicals postage 2.71%, an amount beneath the CPU-U of 2.9%. On March 17, 2008, the PRC found the proposal appropriate under the PAEA.⁶⁰

However, the PAEA does permit postage increases in excess of the CPI-U in the event of an “extraordinary and exceptional circumstance.” Neither the law nor the PRC’s rules define what would constitute such a circumstance.

Notably, the USPS may file its second annual notice for increased postage for periodicals and other non-market products in the winter of 2009. During 2008, the monthly CPI-U has been

⁵⁶ Postal Regulatory Commission, “Administrative Practice and Procedure, Postal Service,” 72 *Federal Register* 63693, Nov. 9, 2007.

⁵⁷ Hence, the postage rate shocks that some mailers faced in the early 1970s and in 2006 may have become a thing of the past.

⁵⁸ For the PRC’s final rules for the new rate-setting system, see Postal Regulatory Commission, “Administrative Practice and Procedure, Postal Service,” 72 *Federal Register* 63662-63704, Nov. 9, 2007. The PAEA does permit the USPS to save unused rate increase authority. For example, if the USPS is permitted to raise rates 3.0% but only raises rates 2.0%, it may add that unused or “banked” 1.0% in a future rate case. Thus, to continue with this example, if the following year the CPI-U is 4%, the USPS may raise rates 4.0% plus the 1.0% in banked rate increase authority. The PAEA limits these banked postage increases to 2%, and it does not permit the USPS to bank any year’s unused rate increase authority for more than five years (thus preventing the gradual accumulation of large rate increase authority.)

⁵⁹ 72 *Federal Register* 9363-9368.

⁶⁰ Postal Regulatory Commission, “Postal Regulatory Commission Verifies Rate Cap Compliance,” press release, Mar. 17, 2008, p. 2, at <http://www.prc.gov/prc-docs/newsroom/PressReleases/PressRelease031708.pdf>.

between 3.0% and 4.5%.⁶¹ The USPS is experiencing financial distress and operating deficits, due in part to a decline in mail volume.⁶² If the USPS's revenues continue to drop significantly and its operating costs increase, the USPS may argue that it is experiencing an "extraordinary and exceptional circumstance" that would justify raising the postage of periodicals and other market dominant products sharply. It is unclear whether the PRC would agree and accede to such an argument. Nor is it clear whether the PRC would interpret the law to permit the USPS to raise periodicals postage at a rate higher than that charged to other mail classes.⁶³

Concluding Observations and Issues for Congress

Over the long-term, it is unclear whether the periodicals postage subsidy will increase or decrease. To date, the new rate schedule and the PAEA have not had any obvious effects on the periodicals postage subsidy. A PRC analysis found that in FY2007 periodicals postage revenues covered only 83% of the class's attributable costs, a shortfall of \$448 million, and made no contribution toward the USPS's institutional costs.⁶⁴

Government provision of postage subsidies for periodicals long has been a contentious issue because it involves disputed principles and vexing implementation issues. Some persons argue that periodicals play a unique role in a representative democracy, that they provide for a flow of information and ideas that benefit the nation. Adherents of this viewpoint argue that this special role means that periodicals deserve subsidization, and that this role was recognized by PRA, which requires USPS to "have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people" (39 U.S.C. 101(a)).

Not everyone agrees with this policy. Some persons contest the purported contribution of periodicals to the public weal or suggest that other means of information transmission, such as the telephone, television, and the World Wide Web are at least equally effective. Still other individuals take the position that fairness requires that each mailer should pay his or her total postage costs.

Meanwhile, other observers accept the importance of periodicals to a representative democracy, but suggest that actuating this idea into a policy has been an overly complex undertaking. As the above review of postage subsidy policy indicates, none has worked perfectly. Postage subsidies policies inevitably have raised two contentious questions: (1) Which periodicals should receive these subsidies?; and (2) Who should pay for these subsidies? The sheer diversity and plenitude of periodicals—from *The Atlantic Monthly* to *People* to *Sports Illustrated* to *Zyrmurgy*—has made enacting periodical postage subsidies a challenging and, frequently, expensive undertaking.

Should Congress wish to consider attempting to assist periodicals publishers, it may wish to consider the following seven issues:

⁶¹ Postal Regulatory Commission, "12-Month Average Change in CPI-U," Nov. 19, 2008, at <http://www.prc.gov/PRC-DOCS/home/CPI.pdf>.

⁶² U.S. Postal Service, "Economy-Driven Mail Volume Decline Contributes to Postal Service \$2.8 Billion Year-End Loss," press release, Nov. 17, 2008, at http://www.usps.com/communications/newsroom/2008/pr08_118.htm.

⁶³ One of the PAEA's objectives for the new rate-setting system is the establishment and maintenance of "a just and reasonable schedule for rates and classifications," although this objective is not to be "construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail" (120 Stat. 3201).

⁶⁴ Postal Regulatory Commission, *Annual Compliance Determination: U.S. Postal Service Performance Fiscal Year 2007* (Washington: PRC: 2008), pp. 23-24.

- (1) Are the conditions that are negatively affecting periodicals likely to continue?
- (2) Does the closure of some periodicals negatively affect the health of the U.S.'s democratic republic?
- (3) Is the transformation of periodicals from paper publications to online publications a positive or negative development?
- (4) Would increased postage subsidies greatly decrease the probability that more publishers will cease publication?
- (5) Would some other form of governmental aid—such as below market loans—be more helpful to periodicals publishers?
- (6) Should government assistance be provided to all periodicals regardless of their editorial subject matter (e.g., government and politics, celebrity news, sports, and hobbies)?
- (7) If periodicals should be further subsidized, what should be the goal of that subsidy? Should it cover the shortfall between periodicals postage revenues and periodicals attributable costs? Or should it also provide a contribution toward periodicals institutional costs?

Author Information

Michelle D. Christensen
Analyst in Government Organization and
Management

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